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11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 THERESA LOUISE CHIPMAN,

14 Plaintiff,
15 vs.

16 STATE FARM MUTUAL AUTOMOBILE
17 INSURANCE COMPANY; DOE OWNERS I-V,
18 DOE DRIVERS IV-X, ROE EMPLOYERS I-X,
19 and ROE COMPANIES I-X,

20 Defendants.

21 Case No. 2:21-cv-01043-JAD-EJY

22 **STIPULATION AND ORDER
REGARDING FRCP 35 MEDICAL
EXAMINATION OF PLAINTIFF**

23 **Date of Exam: April 14, 2022**

24 **Time of Exam: 12:45 p.m.**

25 **Location: Exam: Bone & Joint
Specialists, 2680 Crimson Canyon Dr.
Las Vegas, NV 89128**

26 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Theresa Louis
27 Chipman (“Plaintiff”) and Defendant State Farm Mutual Automobile Insurance Company
28 (“Defendant”) (hereinafter collectively “the Parties”), by and through their undersigned counsels of
record, to the terms of the examination of Plaintiff pursuant to FRCP 35, as follows:

1. The F.R.C.P. Rule 35 Medical Examination (hereinafter “examination”) of Plaintiff shall be conducted by James B. Manning, M.D. (“defense medical examiner”), who is currently licensed to practice in Clark County, Nevada. No other physician, surgeon, or chiropractor shall be present during the examination. If necessary, the F.R.C.P. Rule 35 medical examiner may utilize members of his/her staff to assist during the examination.

2. The defense medical examiner was chosen by and at the discretion of Defendant and/or Defendant's counsel and Plaintiff reserves all rights and privileges to challenge the qualifications, bias, and methodology of the F.R.C.P. Rule 35 medical examiner, his report, conclusions, opinions and/or ability to testify.
3. The examination shall be completed within two (2) hours, and Plaintiff will not be made to wait in the doctor's waiting room for the examination to begin for more than 45 minutes. However, should Plaintiff be made to wait forty-five (45) minutes, Plaintiff's counsel will contact Defendant's counsel so that Defendant's counsel can make a good faith effort to remedy the issue regarding Plaintiff's extended wait time.
4. The examination shall be conducted at the offices at Bone & Joint Specialists, 2680 Crimson Canyon Drive, Las Vegas, Nevada 89128.
5. No CT scans, MRIs, x-rays, or any other imaging shall be performed on the Plaintiff in the course of the examination, nor shall any medical treatment be rendered to the Plaintiff by the F.R.C.P. Rule 35 medical examiner.
6. Any paperwork or forms that Defendant (or the F.R.C.P. Rule 35 medical examiner) requires for the examination shall be submitted to Plaintiff's counsel for review no later than one (1) week prior to the examination.
7. The F.R.C.P. Rule 35 medical examiner shall be provided with a copy of these terms and conditions prior to the examination.
8. Dr. Manning may audio record the examination, and will produce a copy of any such recording(s) no later than May 16, 2022.
9. Plaintiff may have an observer at the examination; however, neither defense counsel or Plaintiff's counsel, nor anyone from the defense counsel's office or

1 Plaintiff counsel's office, may attend the examination. If Plaintiff chooses to have
2 an observer present at the examination, she will notify Defendant's counsel of the
3 identity of any such observer, by no later than Monday, April 11, 2022.

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5 10. Plaintiff may audio record the examination, and will produce a copy of any such
6 recording(s) no later than May 16, 2022.

7 11. The examining physician shall not engage in ex parte contact with Plaintiff's
8 treating health care providers, with regard to the Plaintiff.

9 12. Defendant is entitled to only one (1) F.R.C.P. Rule 35 medical examination.

10 13. The examiner will retain all handwritten notes, e-mails sent and received, and all
11 documents generated or received, including draft reports, related to the
12 examination.

13 14. The examiner will produce a copy of his/her entire file, including any test
14 materials/raw data, to Plaintiff's counsel within thirty (30) days after the
15 examination occurs.

16 15. The examiner will accurately report his/her findings and test results.

17 16. Liability questions may not be asked by the examining physician or any agent or
18 representative of the examining physician, however, Dr. Manning may ask
19 questions regarding mechanism of injury, including how Plaintiff's body moved as
20 a result of the crash, but may not ask any questions pertaining to liability or fault.

21 17. The report generated by the examiner will list all tests, exams, other materials
22 (radiographs, test results, other physician reports) that are used by the examiner to
23 form the examiner's opinions and conclusions. All reference materials must be
24 referred to within the report, otherwise they will be precluded as part of the basis
25 of the medical examiner's opinions.

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18. Nothing in this Stipulation and Order shall, nor is it intended to, limit any motion practice which might later be done with regard to the defense medical examiner, his report, methodology, conclusions, bias and/or opinions, including any motions to strike, disqualify, preclude and/or limit defense medical examiner from testifying at the time of trial.

DATED this 11th day of April, 2022.

DATED this 11th day of April, 2022.

BIGHORN LAW

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**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY**

ORDER

IT IS HEREBY ORDERED that Plaintiff will appear for a FRCP 35 Medical Examination with James B. Manning, M.D., at Bone & Joint Specialists, 2680 Crimson Canyon Dr., Las Vegas, NV 89128 on April 14, 2022, at 12:45 p.m.

IT IS FURTHER ORDERED that the Parties will comply with the parameters set forth above for the FRCP 35 examination. **IT IS SO ORDERED.**

DATED this 11th day of April, 2022.

Eayra J. Zouchah
U.S. MAGISTRATE JUDGE